

REMARKS

The present elections notwithstanding, Reconsideration and withdrawal of the outstanding Restriction/Election Requirement mailed January 18, 2008, is respectfully requested for the reasons set forth herein. In the present application, claims 1—9 are pending; no claims are amended, canceled or added by the present Response.

By way of summary of the comments set forth hereinbelow, Applicant elects Group I, Species B, together with claims 2 and 9 corresponding thereto—with traverse—for proceeding with examination on the merits, in accordance with the requirements set forth in the outstanding Restriction and Election requirements.

Telephone Interviews

As an initial matter, Applicant thanks the Examiner for the courtesy of the interviews conducted by telephone on January 11 and January 17, 2008, between Examiner Oluwatosin Ogunbiyi and Applicant's representative, Ryan Rafferty. During the discussion held January 11, 2008, the Examiner indicated that a Restriction Requirement would be issued, and offered Applicant the option to make an election by telephone, or to await a written Restriction Requirement. In reply, on January 17, 2008, Applicant's representative requested that the

Examiner issue a written Restriction Requirement.

Restriction Requirement

In the outstanding Restriction Requirement, claims 1—9 were restricted into groups I through V as follows: group I, including claims 1, 2 and 9; group II, including claims 3, 4 and 9; group III, including claims 5—7; group IV, including claims 5—7; and group V, including claim 8.

In reply to this Restriction Requirement, Applicant elects claim Group I, including claims 1, 2 and 9, with traverse.

Furthermore, upon selecting Group I, the outstanding Restriction Requirement required election of either Species A, pertaining to an oligonucleotide for genus-specific typing corresponding to SEQ IDs. 7—21, or Species B, pertaining to an oligonucleotide for species-specific typing corresponding to SEQ IDs. 28—127.

In response to the above-noted election of species requirement, Applicant elects Group I, Species B and SEQ IDs. 28—127 corresponding thereto, and elects claims 2 and 9 relating thereto for examination on the merits at the present time, subject to the comments and traversals set forth in this Response.

Moreover, it is respectfully submitted that at least independent claim 2 is a generic claim linking at least Groups II, III, IV and V; for example, by virtue of

multiple dependent claim 5, which depends from independent claim 2 and pertains to Groups III and IV, and also by virtue of claim 8, which depends from independent claim 2 *via* intermediate multiple dependent claim 5 and pertains to Group V.

The outstanding Restriction Requirement in the paragraph beginning at page 3, line 6, indicates that the above-noted Groups I through V lack unity of invention because the technical feature thereof is anticipated by the prior art. However, it is respectfully submitted that, even assuming *arguendo* that the technical feature of the above-noted claim Groups is properly identified as an oligonucleotide comprising SEQ ID. 7, as proposed in the outstanding Restriction Requirement, nonetheless the cited reference to HARASAWA does not anticipate this feature in the manner proposed in the outstanding Restriction Requirement. In addition, it is respectfully submitted that a *prima facie* case of anticipation of this feature is not made in the outstanding Restriction Requirement, because the Restriction Requirement does not identify what teaching or portion of HARASAWA is proposed to anticipate an oligonucleotide comprising SEQ ID. 7; nor does the Restriction Requirement identify the manner in which HARASAWA is proposed to anticipate the relevant technical feature. Therefore, the outstanding Restriction Requirement is likewise traversed for the above-noted reasons.

Accordingly, it is respectfully requested that the outstanding Restriction and Election of Species Requirements be withdrawn, and each of claims 1—9 examined on the merits.

Conclusion

In view of the comments set forth above, a speedy examination on the merits for each of pending claims 1—9 is earnestly solicited. If there should be any questions pertaining to the present Response to Restriction/Election Requirement or any other matter pertaining to this application, the Examiner is respectfully requested to contact Applicant's representatives at the telephone number set forth below.

Respectfully submitted,

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